IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 1962 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/11/2004 in WP NO : 12085 OF 2004 on the file of the High Court.)

Between:

A. Ganesh, S/oPentaiah,
4-210/41, Pradhampuri, Kapra Village, Keesara Mandal,
R.R.District.

..... APPELLANT

AND

1 Joint Collector, R.R.District, at Hyderabad.
2 Revenue Divisional Officer, East Division, R.R.District at Begum Bazar, Hyderabad.
3 Mandal Revenue Officer, Keesara Mandal, Keesara, R.R.District.
4 Sirra Narasimha, S/o. Sivaiah,
R/o. H.No. 24-131, Malkajgiri, R.R.District.
5 G. Pochaiah (Died.
6 G. Sayulu, Sayanna, (Major),
Gandhinagar, Kapira Vill, Keesara Mdl, R.R.District.
7 G. Narasimhulu, S/o. Sayanna, (Major),
Gandhinagar, Kapira Vill, Keesara (M), R.R.District.
8 G. Balaiah, S/o. Achaiah, (Major).
Gandhinagar, Kapira Vill, Keesara (M), R.R.District.
9 G. Mutalu, S/o. Pochaiah, (Major).
Gandhinagar, Kapira Vill, Keesara (M), R.R.District.
10 M. Shankaraiah, S/o. Kistaiah, (Major).
Gandhinagar, Kapira Vill, Keesara (M), R.R.District.
11 M. Mogulaiah, S/o. Muthaiah, (Major).

Gandhinagar, Kapira Vill, Keesara (M), R.R.District.
12 M. Mutyalu, S/o. Sivaiah,(Major).
Gandhinagar, Kapira Vill, Keesara (M), R.R.District.
13 D. Pochaiah, S/o. Durgaiah, Major,
Kapra Village, Keesara Mandal, R.R.District.
14 D. Anjaiah, S/o. Durgaiah, Major,
Kapra Village, Keesara Mandal, R.R.District.
15 D. Hanumanthu, S/o. Durgaiah, Major,
Kapra Village, Keesara Mandal, R.R.District.
16 D. Narasimha, S/o. Durgaiah, Major,
Kapra Village, Keesara Mandal, R.R.District.
17 B. Satyanarayana, S/o. B. Sivaiah, Major,
R/o. 1-8-538/3, Chikkadapally, Hyderabad. (Against RR-5 to 17 no reliefs are claimed and hence they are not necessary parties.)

.....RESPONDENT(S)

Counsel for the Appellant:MR.P.VENUGOPAL

Counsel for the Respondent Nos.1 to 3 : GP FOR REVENUE

Counsel for the Respondent No.4: Mr.Mendu Babu Rao

The Court made the following Oral Judgment: (per Sri Devinder Gupta,CJ)

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Order dated 16.11.2004 disposing of W.V.M.P. No. 3077 of 2004 and W.P.M.P. No.

15357 of 2004 is under challenge in the present appeal filed by the appellant-writ petitioner.

The writ petition was filed by the appellant questioning the legality and validity of the order dated 5.6.2004 passed by the Joint Collector, R.R. District, Hyderabad and the consequential notice dated 8.7.2004 issued by the 2nd respondent. Appellant prayed that pending writ petition, stay of further proceedings pursuant to Order dated 5.6.2004 and notice dated 8.7.2004, be granted.

Learned single judge by way of ex-parte order, granted interim stay which was sought to be vacated by the 4th respondent. Learned single judge instead of concentrating himself on the question involved in the writ petition, proceeded to make certain observations as regards possession of certain lands and the claim of the 4th respondent and proceeded to modify the order saying that in so far as the interim order dated 15.7.2004 passed in W.P. No. 15357 of 2004 is concerned, the same is modified directing that if the fourth respondent is in possession of Acs. 2.21guntas of land in all the above survey numbers, the same shall not be disturbed and in so far as the writ petitioner's allegation that he purchased the share of Guddi Balaiah and Guddi Muthyalu is concerned, there shall be status-quo obtaining as on today to the extent of ½ share of Guddi Balaiah and Guddi Muthyalu.

The aforementioned order passed by learned single judge is not being in consonance with law and is liable to be set aside. The subject matter in the writ petition is the order dated 5.6.2004 passed by the Joint Collector followed by Notice dated 8.7.2004. Therefore, while modifying the interim order, no stay was granted by the learned single judge in respect of these two orders and the order initially granted was that order dated 5.6.2004 shall remain suspended and so also the consequential proceedings dated 8.6.2004.

As rule nisi has been issued in the writ petition, the interim order granted by the learned single judge on 15.7.2004 in WPMP No. 15357 of 2004 is required to be made absolute during the pendency of the writ petition. There was no question of making any adjudication on the rights of the parties, which the learned single judge proceeded to make in the impugned order.

The writ appeal is accordingly allowed. The impugned order is set aside. The interim order granted by the learned single judge on 15.7.2004 in W.P.M.P. No.

15357 of 2004 is made absolute. No costs.

_____ DEVINDER GUPTA, CJ

Date: 8th December, 2004

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M. NARAYANA REDDY, J

Pnb

To

1 The Joint Collector, R.R.District, at Hyderabad.
2 The Revenue Divisional Officer, East Division, R.R.District at Begum

Bazar, Hyderabad.
3 The Mandal Revenue Officer, Keesara Mandal, Keesara, R.R.District.
4 Sirra Narasimha, S/o. Sivaiah,
R/o. H.No. 24-131, Malkajgiri, R.R.District.

5 Two C.Cs. to the Government Pleader for Revenue, High Court

Buildings, Hyderabad. (OUT)

6 Two C.D. copies